



TM

CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Approving Contract Addenda with 360 - CA Schrock Architects, of San Francisco, for Grape Bowl Phase 1 Renovation Project Consistent with Prior City Council Approval of 2007/08 Federal Allocation of Community Development Block Grant Funds (\$91,300)

MEETING DATE: March 4, 2009

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Adopt a resolution approving contract addenda in the amount of \$91,300 with 360 - CA Schrock Architects, of San Francisco, for Grape Bowl Phase 1 Renovation Project consistent with prior City Council approval of 2007/08 Federal allocation of Community Development Block Grant funds and authorizing the City Manager to execute the addenda.

BACKGROUND INFORMATION: On March 7, 2007, City Council approved the 2007/08 Federal allocation of Community Development Block Grant (CDBG) funds. Included in the funding category of "City Projects" was an allocation of \$225,000 to the Grape Bowl Accessibility Improvements. These funds were intended to be used to prepare the plans and specifications for accessibility improvements that were loosely defined at that time.

On November 5, 2008, City Council approved the contract for professional services with 360 - CA Schrock for architectural services for the Grape Bowl Phase 1 project. Three firms submitted proposals and were interviewed by City staff and a representative of the Grape Bowl Ad Hoc Committee. Based upon the superior qualifications and experience of 360 - CA Schrock Architects, a contract award to 360 was recommended by staff and confirmed by City Council. Because the scope of improvements for Phase 1 was not precisely defined, a staged approach was taken to contracting the required professional services to complete the design phase. The scope of services in the original 360 contract did not include engineering, survey, cost estimating and expense reimbursements because the project description was not fully developed.

The Phase 1 accessibility improvements are now **sufficiently** defined to contract for those supplemental services mentioned above. The attached addenda scopes of work and costs are summarized below.

Addenda No. 1	Engineering Survey	\$19,800	Sandis
Addenda No. 2	Utilities and Engineering Design	\$38,500	ARUP
Addenda No. 3	Cost Estimating	\$13,750	Davis Langdon
Addenda No. 4	Reimbursable Expenses	\$19,500	Project
	Total	\$91,550	

APPROVED:


Blair King City Manager


Adopt Resolution Approving Contract Addenda with 360 - CA Schrock Architects, of San Francisco, for Grape Bowl Phase 1 Renovation Project Consistent with Prior City Council Approval of 2007/08 Federal Allocation of Community Development Block Grant Funds (\$91,300)
March 4, 2009
Page 2

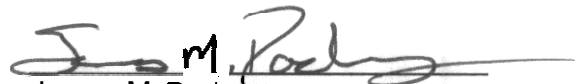
The original contract amount of \$117,500 plus the addenda amount of \$91,550 total to \$209,050. The 2007/08 Federal CDBG Funding Program approved by City Council designated \$225,000 for this project. It is important to note that additional accessibility improvements will be required beyond Phase 1, however, this first phase moves substantially forward in the implementation of the City's 2005 Americans with Disabilities Act (ADA) Transition Plan and diminishes the City's exposure to litigation in the future.

FISCAL IMPACT: \$91,550 Community Development Block Grant (CDBG) Funds

FUNDING AVAILABLE: City's 2007 CDBG: \$225,000


Jordan Ayers, Deputy City Manager


F. Wally Sandelin
Public Works Director


James M. Rodems
Interim Parks & Recreation Director

FWS/pmf

cc: Joseph Wood, Neighborhood Services Manager



Addendum to Owner-Architect Agreement

To: Jim Rodems
Client: City of Lodi
Project Name: Lodi Grape Bowl Phase I Renovation
Project Number: 087350.00

Addendum Number: 1
Date: December 22, 2008

Per our recent conversation, this Addendum is part of, and incorporated by reference into, our Owner-Architect Agreement ("Prime Agreement") dated 12/5/2008 and is subject to and governed by all the terms and conditions of the Prime Agreement unless modified in writing.

Scope of Work: Place the Survey Engineer consultant under the responsibility of the Architect.
The Survey Engineer will contract with the Architect.

Compensation: Lump Sum of ~~\$19,800~~ for Survey Engineering Services (see attached document from Sandis)
~~Reimbursable expenses not to exceed \$500.~~

Estimated
Schedule: No Change

Special
Provisions/
Remarks:

Reason for
Addendum: No survey of existing conditions exists and is needed to complete Phase 1 Renovations.
Proposals were solicited and received from three different survey engineers - Premier Engineering, Baumbach & Piazza and Sandis Engineers. Sandis was selected on a basis of cost and product's usefulness to the project development. Other proposals for this work were received but were either more costly or provided for a product that would be less beneficial to the City and the Design Team.

Requested By: Client/Architect

If this Addendum is acceptable, please return one fully executed original to our office. Please contact me with any questions or comments.

By: Ian Glidden
Title: Project Manager
Date: December 22, 2008
Company: 360 Architecture Inc.

By: _____
Title: City Manager
Date: _____
Company: City of Lodi

Approved as to form


City Attorney



SANDIS

CIVIL ENGINEERS
SURVEYORS
PLANNERS

December 12, 2008
Project No. 208924

City of Lodi
c/o Ian Glidden, AIA
360 Architecture Inc.
1005 Sansome, Suite 234
San Francisco, CA 94111
Tel: 415/ 362-3601

**RE: GRAPE BOWL PHASE 1 RENOVATION
221 EAST LAWRENCE AVENUE, LODI, CA**

Dear Ian,

We are pleased to submit our proposal to provide Surveying Services for the above referenced project.

We propose to provide the following scope of work:

AERIAL TOPOGRAPHIC SURVEY

\$12,800

- ◆ We propose to provide an Aerial Topographic Survey at a scale of 1" = 20'. This survey will show the location of aerially visible features including existing trees, structures, walkways, fences, adjacent roadways, and utility vaults, manholes and catchbasins within the project areas. The location of underground utilities will not be shown.

Contours will be shown at one (1) foot intervals or as appropriate to clearly define the slopes. Spot elevations will be shown to an accuracy of 0.1 (one tenth) of a foot.

We will provide a color photo of the site in hardcopy and digital format for planning purposes.

This survey will be prepared in AutoCAD Version 2007 and will **be** completed within 4 to 5 weeks from written notice to proceed weather permitting.

UTILITY SURVEY

\$7,000

- ◆ We will perform 2 ½ days (20 hours) of field utility surveying and associated office drafting to provide locations for existing utilities not included in the Aerial scope above.

TERMS AND CONDITIONS

- ◆ This proposal will become our agreement for services upon execution and will authorize all services listed above and encompass all provisions included in the attached Standard Provisions of Proposal, Between Client and Consultant, Form B.



SANDIS

CIVIL ENGINEERS
SURVEYORS
PLANNERS

December 12, 2008
City of Lodi
Ian Giidden, AIA
360 Architecture Inc.
Promo No. 208924
Page 2

If you have any questions about these provisions, please call and we will discuss them with you. Reimbursable expenses will not exceed \$500.

- ◆ This proposal does not include the costs for reimbursable expenses such as printing, monuments, materials, outside services and consultants, express/overnight mail, **courier/special** delivery, and travel/per diem. Agency fees will not be paid by Sandis and are not included in this proposal. Any of the above expenses will be charged at cost plus 15%.
- ◆ The scope of work included in this proposal is limited to the specific scope outlined above only. Any exclusions listed are for clarity only and do not represent a complete list of exclusions to the scope. Any additional scope proposed or done other than those listed in this proposal shall be done as an **additional** service.

The above services will be provided for the amounts listed for each phase and will be performed under the Provisions of Form **B**.

Pursuant to state law, no work can proceed on this project without written acceptance. If this proposal meets with your approval, please return one signed copy of this proposal and one initialed copy of Form **B** to our Mountain View office as your authorization to proceed. We are also enclosing the "Project Information Sheet" which needs to be completed and returned prior to our starting work on this project.

Very truly yours

Approved

SANDIS

CITY OF LODI

Laura Cabral, PLS
Survey Manager

By: 

Title: .

Date: 

Attachments: Form B
LC/meb Project Information Sheet

N/A

**STANDARD PROVISIONS OF AGREEMENT
BETWEEN CLIENT AND CONSULTANT**

This form of agreement (Form B) was developed by the Consulting Engineers and Land Surveyors of California and is intended primarily for the use of CELSOC members and may not be reproduced without the permission of the Consulting Engineers and Land Surveyors of California. © 2003, 2001, 1998, 1994, 1991, 1987, 1984, 1982, 1979, 1978, 1975, 1973, 1970, 1967.

Project No. 208924

Client and Consultant agree that the following provisions shall be part of this agreement:

1. Client and Consultant agree to cooperate with each other in order to fulfill their responsibilities and obligations under this agreement. Both Client and Consultant shall endeavor to maintain good working relationships among members of the project team.
2. This agreement shall be binding upon the heirs, executors, administrators, successors and assigns of Client and Consultant.
3. This agreement shall not be assigned by either Client or Consultant without the prior written consent of the other.
4. This agreement contains the entire agreement between Client and Consultant relating to the project and the provision of services for the project. Any prior agreements, promises, negotiations or representations not expressly set forth in this agreement are of no force or effect. Subsequent modifications to this agreement shall be in writing and signed by both Client and Consultant.
5. Consultant's or Client's waiver of any term, condition or covenant shall not constitute the waiver of any other term, condition or covenant. Consultant's or Client's waiver of any breach of this agreement shall not constitute the waiver of any other breach of the agreement.
6. If any term, condition or covenant of this agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this agreement shall be valid and binding on Client and Consultant.
7. This agreement shall be governed by and construed in accordance with the laws of the State of California.
8. If the scope of services includes Consultant's assistance in applying for governmental permits or approvals, Consultant's assistance shall not constitute a representation, warranty or guarantee that such permits or approvals will be acted upon favorably by any governmental agency.
9. Upon Consultant's request, Client shall execute and deliver, or cause to be executed and delivered, such additional information, documents or money to pay governmental fees and charges which are necessary for Consultant to perform services pursuant to the terms of this agreement.
10. Client acknowledges all reports, plans, specifications, field data and notes and other documents, including all documents on electronic media, prepared by Consultant are instruments of service, and shall remain the property of Consultant and may be used by Consultant without the consent of Client. Upon request and payment of all costs involved, Client is entitled to a copy of all final plans and specifications for use in connection with the project for which the plans and specifications have been prepared. Client acknowledges that its right to utilize final plans and specifications and the services of Consultant provided pursuant to this agreement will continue only so long as Client is not in default, pursuant to the terms and conditions of this agreement, and Client has performed all its obligations under this agreement.
11. Client agrees not to use or permit any other person to use plans, specifications, drawings, cost estimates, reports or other documents prepared by Consultant which plans, specifications, drawings, cost estimates, reports or other

Client Initials	Consultant Initials
	Ko

Client Initials	Consultant Initials Ko
-----------------	---------------------------

documents are not final and which are not signed and stamped or sealed by Consultant. Client shall be responsible for any such use of non-final plans, specifications, drawings, cost estimates, reports or other documents not signed and stamped or sealed by Consultant. Client hereby waives any claim for liability against Consultant for such use. Client further agrees that final plans, specifications, drawings, cost estimates, reports or other documents are for the exclusive use of Client and may be used by Client only for the project described on page 1 of 8 of this agreement. Such final plans, specifications, drawings, cost estimates, reports or other documents may not be changed or used on a different project without written authorization or approval by Consultant. If signed check-prints are required to be submitted with a stamp or seal, they shall not be considered final for purposes of this paragraph.

12. In accepting and utilizing any drawings, reports and data on any form of electronic media generated and furnished by Consultant, Client covenants and agrees that all such electronic files are instruments of service of Consultant, who shall be deemed the author, and shall retain all common law, statutory law and other rights, including copyrights.

Client agrees not to reuse these electronic files, in whole or in part, for any purpose or project other than the project that is the subject of this agreement. Client agrees not to transfer these electronic files to others without the prior written consent of Consultant. Client further agrees to waive all claims against Consultant resulting in any way from any unauthorized changes or reuse of the electronic files for any other project by anyone other than Consultant.

Client and Consultant agree that any electronic files furnished by either party shall conform to the CADD specifications listed in Exhibit _____. Any changes to the CADD specifications by either Client or Consultant are subject to review and acceptance by the other party. Additional services by Consultant made necessary by changes to the CADD or other software specifications shall be compensated for as additional services.

Electronic files furnished by either party shall be subject to an acceptance period of fifteen (15) days during which the receiving party agrees to perform appropriate acceptance tests. The party furnishing the electronic file shall correct any discrepancies or errors detected and reported within the acceptance period. After the acceptance period the electronic files shall be deemed to be accepted and neither party shall have any obligation to correct errors or maintain electronic files.

Client is aware that differences may exist between the electronic files delivered and the printed hard copy construction documents. In the event of a conflict between the signed construction documents prepared by Consultant and electronic files, the signed and stamped or sealed hard copy construction documents shall govern.

In addition, Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless Consultant, its officers, directors, employees, agents and subconsultants against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising from any changes made by anyone other than Consultant or from any reuse of the electronic files without the prior written consent of Consultant.

Under no circumstances shall delivery of electronic files for use by Client be deemed a sale by Consultant, and Consultant makes no warranties, either express or implied, of merchantability and fitness for any particular purpose. In no event shall Consultant be liable for indirect or consequential damages as a result of Client's use or reuse of the electronic files.

13. Consultant makes no representations concerning soils or geological conditions unless specifically included in writing in this agreement, or by amendments to this agreement, and shall not be responsible for any liability that may arise out of the making of or failure to make soils or geological surveys, subsurface soils or geological tests, or general soils or geological testing.
14. Client acknowledges Consultant has the right to complete all services agreed to be rendered pursuant to this agreement. In the event this agreement is terminated before the completion of all services, unless Consultant is responsible for such early termination, Client agrees to release Consultant from all liability for services

Client Initials	Consultant Initials <i>Ko</i>
-----------------	----------------------------------

performed. In the event all or any portion of the services by Consultant are suspended, abandoned, or otherwise terminated, Client shall pay Consultant all fees and charges for services provided prior to termination, not to exceed the contract limits specified herein, if any. Client acknowledges if the project services are suspended and restarted, there will be additional charges due to suspension of the services which shall be paid for by Client as extra services pursuant to paragraph 29. Client acknowledges if project services are terminated for the convenience of Client, Consultant is entitled to reasonable termination costs and expenses, to be paid by Client as extra services pursuant to paragraph 29.

15. If the scope of services to be provided by Consultant pursuant to the terms of this agreement includes an ALTA survey, Client agrees that Consultant may sign **one** of the ALTA survey statements attached to this agreement and incorporated herein by reference. In the event Consultant is required to sign a statement or certificate which differs from the ALTA survey statements contained in the attachment to this agreement, Client hereby agrees to indemnify and hold Consultant harmless from any and all liability arising from or resulting from the signing of any statement which differs from those statements contained in the attachment to this agreement.
16. If the scope of services to be provided by Consultant pursuant to the terms of this agreement includes the preparation of grading plans but excludes construction staking services, Client acknowledges that such staking services normally include coordinating civil engineering services and the preparation of record drawings based upon information provided by others, and Client will be required to retain such services from another consultant or pay Consultant pursuant to this agreement for such services as extra services in accordance with paragraph 29.
17. Unless the scope of services to be provided by Consultant expressly includes Consultant's assistance in determinations regarding the application of prevailing wages, Client and Consultant acknowledge that it is Client's exclusive responsibility to determine whether the project, which is the subject of this agreement, is a "public work" as defined in California Labor Code Section 1720, or whether prevailing wage rates are to be paid to certain workers in connection with the project, or determine the rate of prevailing wages to be paid certain workers. Consultant will develop its schedule of labor rates in reliance on the determinations of Client. In the event of a dispute regarding whether the project is a "public work", whether prevailing wages are to be paid, or the amount of prevailing wages to be paid to individual workers, Client agrees to pay Consultant for any and all additional costs and expenses (including additional wages, penalties & interest) incurred by Consultant and further agrees to the maximum extent permitted by law to defend, indemnify and hold harmless Consultant, its officers, directors, employees, agents and subconsultants from all damages, liabilities or costs, including reasonable attorneys' fees and costs, arising from or related to the Client's determinations regarding the application of or payment of prevailing wages.
18. If the scope of services contained in this agreement does not include construction-phase services for this project, Client acknowledges such construction-phase services will be provided by Client or by others and Client assumes all responsibility for interpretation of the contract documents and for construction observation and supervision and waives any claim against Consultant that may in any way be connected thereto. In addition, Client agrees to indemnify and hold Consultant harmless from any loss, claim, or cost, including reasonable attorneys' fees and costs of defense, arising or resulting from the performance of such services by other persons or entities and from any and all claims arising from the modification, clarification, interpretation, adjustments or changes made to the contract documents to reflect changed field or other conditions, except for claims arising from the sole negligence or willful misconduct of Consultant.
19. If the scope of work of Consultant includes the rendition of professional services for a project which is a common interest development subject to the provisions of Civil Code section 1375, Client agrees to reimburse Consultant for all costs associated with Consultant's participation in the pre-litigation process described in Civil Code section 1375. Further, Client agrees to pay Consultant's fees for time incurred participating in the pre-litigation process. These fees and costs shall be paid as extra services in accordance with paragraph 29. Such extra services shall be paid at Consultant's normal hourly rates in effect at the time Consultant participates in the pre-litigation process. For purposes of this paragraph, a "common interest development" shall be a common interest development as defined in Civil Code section 1375.

Client Initials	Consultant Initials
	Ko

Client agrees, to the maximum extent permitted by law, to defend, indemnify and hold harmless Consultant, its officers, directors, employees, agents and subconsultants from all damages, liabilities or costs, including reasonable attorneys' fees and costs, arising from or related to Consultant's participation in the pre-litigation process pursuant to Civil Code section 1375.

Client agrees that if Client receives a Notice of Commencement of Legal Proceedings pursuant to Civil Code section 1375, Client will notify Consultant within 10 days of Client's receipt of the Notice of Commencement of Legal Proceedings, provided the Notice of Commencement of Legal Proceedings either identifies Consultant as a potentially responsible party or the face of the Notice contains information which identifies Consultant's potential responsibility. If Client does not timely notify Consultant, then Client agrees, to the maximum extent permitted by law, to defend, indemnify and hold harmless Consultant, its officers, directors, employees, agents and subconsultants from all damages, liabilities or costs, including reasonable attorneys' fees and costs, arising from or related to Client's failure to timely notify Consultant.

20. Consultant shall be entitled to immediately, and without notice, suspend the performance of any and all of its obligations pursuant to this agreement if Client files a voluntary petition seeking relief under the United States Bankruptcy Code or if there is an involuntary bankruptcy petition filed against Client in the United States Bankruptcy Court, and that petition is not dismissed within fifteen (15) days of its filing. Any suspension of services made pursuant to the provisions of this paragraph shall continue until such time as this agreement has been fully and properly assumed in accordance with the applicable provisions of the United States Bankruptcy Code and in compliance with the final order or judgment issued by the Bankruptcy Court. If the suspension of performance of Consultant's obligation pursuant to this agreement continues for a period in excess of ninety (90) days, Consultant shall have the right to terminate all services pursuant to this agreement.
21. This agreement shall not be construed to alter, affect or waive any design professional's lien, mechanic's lien or stop notice right which Consultant may have for the performance of services pursuant to this agreement. Client agrees to provide to Consultant the present name and address of the record owner of the property upon which the project is to be located. Client also agrees to provide Consultant with the name and address of any and all lenders who may loan money on the project and who are entitled to receive a preliminary notice.
22. If payment for Consultant's services is to be made on behalf of Client by a third-party lender, Client agrees that Consultant shall not be required to indemnify ~~the~~ third-party lender, in the form of an endorsement or otherwise, as a condition to receiving payment for services.
23. The Consultant shall not be required to execute any documents subsequent to the signing of this Agreement that in any way might, in the judgment of the Consultant, increase the Consultant's contractual or legal obligations or risk, or adversely affect the availability or cost of its professional or general liability insurance. Nor shall Consultant be required to sign any documents, requested by any party, including Client, that would result in the Consultant's having to certify, guarantee, warrant or state the existence ~~of~~ conditions whose existence the Consultant cannot ascertain. The Client also agrees not to make resolution of any dispute with the Consultant or payment of any money due to the Consultant, in any way contingent upon the Consultant's signing any such certification, guarantee, warranty or statement.
24. All fees and other charges due Consultant will be billed monthly and shall be due at the time of billing unless specified otherwise in this agreement. If Client fails to pay Consultant within thirty (30) days after invoices are rendered, Consultant shall have the right in its sole discretion to consider such default in payment a material breach of this entire agreement, and, upon written notice, Consultant's duties, obligations and responsibilities under this agreement may be suspended or terminated. In such event, Client shall promptly pay Consultant for all outstanding fees and charges due Consultant at the time of suspension or termination. If Consultant elects to suspend or terminate Consultant's services pursuant to this provision, Consultant is entitled to reasonable suspension or termination costs or expenses.
25. Client agrees that all billings from Consultant to Client are correct and binding on Client unless Client, within ten

Client Initials	Consultant Initials Ko
-----------------	---------------------------

(10) days from the date of receipt of such billing, notifies Consultant in writing of alleged inaccuracies, discrepancies, or errors in billing.

26. Client agrees to pay a monthly late payment charge, which will be the lesser of one and one-half percent (1-1/2%) per month or a monthly charge not to exceed the maximum legal rate, which will be applied to any unpaid balance commencing thirty (30) days after the date of the billing.
27. If Consultant, pursuant to this agreement, produces plans, specifications, or other documents and/or performs field services, and such plans, specifications, **or** other documents and/or field services are required by any governmental agency, and such governmental agency changes its ordinances, codes, policies, procedures or requirements after the date of this agreement, any additional office or field services thereby required shall be paid for by Client as extra services in accordance with paragraph 29.
28. In the event Consultant's fee schedule changes due to any increase of costs such as the granting of wage increases and/or other employee benefits to field or office employees due to the terms of any labor agreement, or increase in the cost of living, during the lifetime of this agreement, a percentage increase shall be applied to all remaining fees and charges to reflect the increased costs.
29. Client agrees that if Client requests services not specified in the scope of services described in this agreement, Client will pay for all such additional services as extra services, in accordance with Consultant's billing rates utilized for this agreement.
30. In the event that any staking or record monuments are destroyed, damaged or disturbed by an act of God or parties other than Consultant, the cost of restaking shall be paid for by Client as extra services in accordance with paragraph 29.
31. Client acknowledges that the design services performed pursuant **to** this agreement are based upon field and other conditions existing at the time these services were performed. Client further acknowledges that field and other conditions may change by the time project construction occurs and clarification, adjustments, modifications and other changes may be necessary to reflect changed field or other conditions. Such clarifications, adjustments, modifications and other changes shall be paid for by Client as extra services in accordance with paragraph 29.
32. Client shall pay the costs of all checking and inspection fees, zoning and annexation application fees, assessment fees, soils or geotechnical engineering fees, soils or geotechnical testing fees, aerial topography fees, and all other fees, permits, bond premiums, applicable taxes on professional services, title company charges, blueprints and reproductions, and all other similar charges not specifically covered by the terms of this agreement.
33. Client acknowledges and agrees that if Consultant provides surveying services, which services require the filing of a Record of Survey in accordance with Business and Professions Code section 8762, or a Comer Record pursuant to Business and Professions Code section 8773, all of the costs of preparation, examination and filing for the Record of Survey or Comer Record will be paid by Client as extra services in accordance with paragraph 29.
34. Consultant is not responsible for delay caused by activities or factors **beyond** Consultant's reasonable control, including but not limited to, delays by reason of strikes, lockouts, work slowdowns or stoppages, accidents, acts of God, failure of Client to furnish timely information or approve or disapprove of Consultant's services or instruments of service promptly, faulty performance by Client **or** other contractors or governmental agencies. When such delays beyond Consultant's reasonable control occur, Client agrees Consultant shall not be responsible for damages nor shall Consultant be deemed to be in default of this agreement. Further, when such delays occur, Client agrees that, to the extent such delays cause Consultant to perform extra services, such services shall be paid for by Client as extra services in accordance with paragraph 29.
35. Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither the Client nor the Consultant, their respective officers, directors, partners, employees, contractors or subconsultants

Client Initials	Consultant Initials <i>Ko</i>
-----------------	----------------------------------

shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected in any way to the Project or to this Agreement. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation or any other incidental, indirect or consequential damage that either party may have incurred from any cause or action.

36. Consultant shall not be liable for damages resulting from the actions or inactions of governmental agencies including, but not limited to, permit processing, environmental impact reports, dedications, general plans and amendments thereto, zoning matters, annexations or consolidations, use or conditional use permits, project or plan approvals, and building permits. Client agrees that it is the responsibility of Client to maintain in good standing all governmental approvals or permits and to timely apply for any necessary extensions thereof.
37. If the scope of services requires Consultant to estimate quantities, such estimates are made on the basis of Consultant's experience and qualifications and represent Consultant's best judgment as a professional generally familiar with the industry. However, such estimates **are** only estimates and shall not constitute representations, warranties or guarantees of the quantities of the subject of the estimate. If the scope of services requires Consultant to provide its opinion of probable construction costs, such opinion is to be made on the basis of Consultant's experience and qualifications and represents Consultant's best judgment as to the probable construction costs. However, since Consultant has no control over costs or the price of labor, equipment or materials, or over the contractor's method of pricing, such opinions of probable construction costs do **not** constitute representations, warranties or guarantees of the accuracy of such opinions, as compared to bid or actual costs.
38. Estimates of land areas provided under this agreement are not intended to be, nor should they be considered to be, precise. The estimate will be performed pursuant to generally accepted standards of professional practice in effect at the time of performance.
39. Client acknowledges that Consultant is not responsible for the performance of work by third parties including, but not limited to, the construction contractor and its subcontractors.
40. Consultant makes **no** warranty, either express or implied, as to its findings, recommendations, plans, specifications, or professional advice except that the services were performed pursuant to generally accepted standards of professional practice in effect at the time of performance.
41. In the event (1) Client agrees to, authorizes, or permits changes in the plans, specifications or documents prepared by Consultant, which changes are not consented to in writing by Consultant, or (2) Client agrees to, authorizes or permits construction of unauthorized changes in the plans, specifications or documents prepared by Consultant, which changes are not consented to in writing by Consultant, or (3) Client does not follow recommendations prepared by Consultant pursuant to this agreement, which changed recommendations are not consented to in writing by Consultant: Client acknowledges that the unauthorized changes and their effects are not the responsibility of Consultant and Client agrees to release Consultant from all liability arising from the use of such changes, and further agrees to defend, indemnify and hold harmless Consultant, its officers, directors, agents, employees and subconsultants from and against all claims, demands, damages or costs, including attorneys' fees, arising from the unauthorized changes.
42. Client agrees that in accordance with generally accepted construction practices, the construction contractor and construction subcontractors will be required to assume sole and complete responsibility for job site conditions during the course of construction of the project, including safety of all persons and property, and that this requirement shall apply continuously and not be limited to normal working hours. Neither the professional activities of Consultant nor the presence of Consultant or his or her employees or subconsultants at a construction site shall relieve the contractor and its subcontractors of their obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending or coordinating all portions of the work of construction in accordance with the contract

Client Initials	Consultant Initials KO
-----------------	---------------------------

documents and applicable health or safety requirements of any regulatory agency or of state law.

43. Client agrees to require its contractor and subcontractors to review the plans, specifications and documents prepared by Consultant prior to the commencement of construction-phase work. If the contractor and/or subcontractors determine there are deficiencies, conflicts, errors, omissions, code violations, improper uses of materials, or other deficiencies in the plans, specifications and documents prepared by Consultant, contractors and subcontractors shall notify Client so those deficiencies may be corrected by Consultant prior to the commencement of construction-phase work.
44. If during the construction phase of the project Client discovers or becomes aware of changed field or other conditions which necessitate clarifications, modifications or other changes to the plans, specifications, estimates or other documents prepared by Consultant, Client agrees to notify Consultant and retain Consultant to prepare the necessary changes or modifications before construction activities proceed. Further, Client agrees to require a provision in its construction contracts for the project which requires the contractor to promptly notify Client of any changed field or other conditions so that Client may in turn notify Consultant pursuant to the provisions of this paragraph. Any extra work performed by Consultant pursuant to this paragraph shall be paid for as extra services pursuant to paragraph 29.
45. Client ~~agrees to~~ purchase and maintain, or cause Contractor to purchase and maintain, during the course of construction, builder's risk "all risk" insurance which will name Consultant as an additional named insured ~~as~~ its interest may appear.
46. Client acknowledges that Consultant's scope of services for this project does not include any services related in any way to asbestos and/or hazardous or toxic materials. Should Consultant or any other party encounter such materials on the job site, or should it in any other way become known that such materials are present or may be present on the job site or any adjacent or nearby areas which may affect Consultant's services, Consultant may, at its option, suspend or terminate work on the project until such time ~~as~~ Client retains a qualified contractor to abate and/or remove the asbestos and/or hazardous or toxic materials and warrant that the job site is free from any hazard which may result from the existence of such materials.
47. Client hereby agrees to bring no cause of action on any basis whatsoever against Consultant, its officers and directors, principals, employees, agents and subconsultants if such claim or cause of action in any way would involve Consultant's services for the investigation, detection, abatement, replacement, use or specification, or removal of products, materials or processes containing asbestos, asbestos cement pipe, and/or any hazardous or toxic materials. Client further agrees to defend, indemnify and hold harmless Consultant, its officers, directors, principals, employees and subconsultants from any asbestos and/or hazardous or toxic material related claims that may be brought by third parties as a result of the services provided by Consultant pursuant to this agreement, except claims caused by the sole negligence or willful misconduct of Consultant.
48. Client agrees to defend, indemnify and hold harmless Consultant, its officers, directors, principals, employees and subconsultants from and against all claims, losses, damages and cost caused by, arising out of, or relating to, the presence of any **fungus**, mildew, mold or resulting allergens, provided that such claim, loss, damage or cost is not due to the sole negligence or willful misconduct of Consultant.
49. In the event of any litigation arising from or related to the services provided under this agreement, the prevailing party will be entitled to recovery of all reasonable costs incurred, including staff time, court costs, attorneys' fees, experts' fees and other related expenses.
50. Client agrees that in the event Consultant institutes litigation to enforce or interpret the provisions of this agreement, such litigation is to be brought and adjudicated in the appropriate court in the county in which Consultant's place of business is located, and Client waives the right to bring, ~~try~~ or remove such litigation to any other county or judicial district.
51. (a) Except as provided in subdivisions (b) and (c), in an effort to resolve any conflicts that arise during the design

Client Initials	Consultant Initials KO
-----------------	---------------------------

or construction of the project or following completion of the project, Client and Consultant agree that all disputes between them arising out of or relating to this agreement shall be submitted to nonbinding mediation, unless the parties mutually agree otherwise.

Client and Consultant further agree to include a similar mediation provision in all agreements with independent contractors and consultants retained for the project and to require all independent contractors and consultants also to include a similar mediation provision in all agreements with subcontractors, subconsultants, suppliers or fabricators so retained, thereby providing for mediation as the primary method for dispute resolution between the parties to those agreements.

(b) Subdivision (a) shall not preclude or limit Consultant's right to file an action for collection of fees if the amount in dispute is within the jurisdiction of the small claims court.

(c) Subdivision (a) shall not preclude or limit Consultant's right to record, perfect or enforce applicable mechanic's lien or stop notice remedies.

- 52.** Client agrees to limit the liability of Consultant, its principals, employees and subconsultants, to Client and to all contractors and subcontractors on the project, for any claim or action arising in tort, contract, or strict liability, to the sum of \$50,000 or Consultant's fee, whichever is greater. Client and Consultant acknowledge that this provision was expressly negotiated and agreed upon.

Space below is provided for additional provisions as agreed upon by both the client and consultant.



Addendum to Owner-Architect Agreement

To: Jim Rodems
Client: City of Lodi
Project Name: Lodi Grape Bowl Phase I Renovation
Project Number: 087350.00

Addendum Number: 2
Date: December 22, 2008

Per our recent conversation, this Addendum is part of, and incorporated by reference into, our Owner-Architect Agreement ("Prime Agreement") dated 12/5/2008, and is subject to and governed by all the terms and conditions of the Prime Agreement unless modified in writing.

Scope of Work: Place the Civil Engineer consultant under the responsibility of the Architect.
The Civil Engineer will contract directly with the Architect.

Compensation: Lump Sum of \$35,000 for Civil Engineering Services (see attached document from Arup)
Lump Sum of \$3,500 for Architectural Services

Estimated
Schedule: No Change

Special
Provisions/
Remarks:

Reason for Addendum: Client has requested that specialty consultants required to complete the Phase I Renovation documents be included under the Architect's scope of responsibility.

Requested By: Client

If this Addendum is acceptable, please return one fully executed original to our office. Please contact me with any questions or comments.

By: Ian Glidden
Title: Project Manager
Date: December 19, 2008
Company: 360 Architecture Inc.

By: _____
Title: _____
Date: _____
Company: City of Lodi

Approved as to form

City Attorney

Our ref HA
Date December 18, 2008

560 Mission Street, Suite 700
San Francisco, CA 94105
Tel +1 415 957 9445
Fax +1 415 957 9096
Direct Tel +1 415 946 0215
rstephen.bmw@arup.com

www.arup.com

Ian Glidden, AIA
360 Architects Inc.
1005 Sansome, Ste. 234
San Francisco, CA 94111

ARUP

Grape Bowl Renovation - Phase 1 – Utility Survey and Civil Engineering

Dear Ian,

Thank you for the meeting last week. As discussed, we are pleased to submit the following proposal for Civil engineering services for phase 1 of the renovation to the existing Grape Bowl stadium in Lodi, California. This proposal is based on our conversation on November 25th, 2008. Arup's client for this work will be 360 Architects.

Introduction

The existing sports field is surrounded by a berm. The berm is approximately **40** feet wide and 20 feet **high**. There are currently 2 bathroom facilities, built in the 1940's, located on either side of the field along the long direction.

The primary purpose of the renovations is to begin to address the facilities' accessibility issues. The work will include re-grading, replacing existing bathrooms with new facilities and tunneling through the existing berm to accommodate a ground level / plaza entrance into the facility. Amp has been requested to provide a proposal for the Civil engineering services.

The existing and anticipated uses of the Grape Bowl facility include High School Football, Club Soccer, Club Lacrosse, Concerts, Fanner's and Flea Markets, ~~annual~~ events like Wine festival, Marching Band practice facility, and Graduation ceremonies.

Schedule

The design phase of the project is to be completed by the first quarter of 2009. The schedule for the interim submittals is:

- December 31st – Concept/Schematic Submittal
- January 31st – Design Development (DD) Submittal
- April 15th – Bid Set Submittal

Scope of Work

The Civil work includes participation in design and review meetings with the Architect and other team members, coordination with other disciplines and development and production of Plans and Specifications for bidding.

Specific scope items include:

- Site Topographic and existing utility plans. Please note that Amp proposes to utilize a local Lodi firm to perform surveying services and topographic plan preparation upon award of the contract. A placeholder fee for surveying services is included below, subject to confirmation by the surveyor.

- Stormwater Pollution Prevention Plan (SWPPP) documentation in accordance with State of California and City of Lodi requirements.
- Demolition plans that document items to be removed at the site-wide scale
- Grading and drainage plans to document the regrading of the existing stadium embankment. Drainage plans will conform to the requirements of the National Pollution Discharge Elimination System (NPDES) and the City of Lodi's Stormwater Development Standards Plan.
- The grading study will include an analysis of the potential to utilize berm material to add a crown and/or raise the elevation of the playing surface.
- Identification of a future Entry Plaza layout. During the schematic design stage, a conceptual entry plaza layout will be developed. The grading plans will accommodate the future design and construction of the conceptual entry plaza. Future emergency vehicle access to the entry plaza area will be considered.
- Accessibility improvements will be identified during scheme design, and incorporated into the construction documentation. Anticipated improvements include at-grade ramps and curb-cuts.
- Wet utility connections (potable water and sanitary sewer). The connections to existing utilities required to serve the new restroom facilities will be identified. .

Assumptions

The above proposal includes the following assumptions:

1. One revision to the plans and specifications will be required, following plan checking by the City of Lodi.
2. The existing water and sewer utilities serving the current stadium complex have sufficient capacity to serve the new facilities.
3. The existing water and sewer utilities are located within close proximity to the proposed facilities. Should new sewers, water mains and associated lift stations be required, these can be provided as additional services.
4. An Associate Civil Engineer will attend the following meetings: One kick-off meeting / site visit in Lodi; one team meeting during concept design; one team meeting during design development; one team meeting during construction documentation.

The following services are not included in this proposal, but could be provided as additional services by Arup, or by a sub-consultant, if required:

1. Subsurface hazardous materials investigation
2. Environmental assessment documentation
3. Dry utility design (electrical, gas, I.T external plant).
4. Detail design of the entry plaza area.
5. A preliminary analysis of the pros/cons associated with installing a FieldTurf™, or equivalent, artificial surface and associated drainage system.
6. Structural design of a new pedestrian access tunnel through the existing berm.
7. Structural design of new stairways or bridges that may be incorporated during the SD phase.
8. Fire hydrants and fire main layout for future stadium
9. Analysis and design of off-site utility improvements required to service the site if existing utilities have insufficient capacity.
10. Landscaping and irrigation design
11. Title Company reports, services and fee
12. Tentative or Final Mapping, including legal descriptions/private easement exhibits
13. Special/ Service district annexation
14. Governmental and public agency fees, including filing and map check fees
15. Bid support services
16. Construction Administration services, including site visits, responding to RFI's, reviewing shop drawing submittals and assisting Architect with construction change orders.

HA
December 18,2008

Page 3

Fees

Topo and Utility survey

\$20,000 (placeholder amount to be confirmed by surveyor)

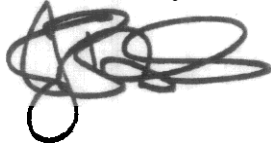
Civil

\$35,000

Please see our standard contract terms and conditions and our hourly rates attached to this proposal.

We look forward to working with you on this project.

Yours sincerely

A handwritten signature in black ink, appearing to read 'S. Burrows', with a large, stylized loop at the end.

Stephen Burrows
Principal



Addendum to Owner-Architect Agreement

To: Jim Rodems
Client: City of Lodi
Project Name: Lodi Grape Bowl Phase I Renovation
Project Number: 087350.00

Addendum Number: 3
Date: January 12, 2009

Per our recent conversation, this Addendum is part of, and incorporated by reference into, our Owner-Architect Agreement ("Prime Agreement") dated 12/5/2008, and is subject to and governed by all the terms and conditions of the Prime Agreement unless modified in writing.

Scope of Work: Place the Cost Estimator consultant under the responsibility of the Architect
The Cost Estimator will contract directly with the Architect.

Compensation: Lump Sum of \$12,500 for Cost Estimating Services
See attached document from Davis Langdon
Lump Sum of \$1,250 for Architectural Services

Estimated
Schedule: No Change

Special
Provisions/
Remarks:

Reason for Addendum: Client has requested that specialty consultants required to complete the Phase I Renovation documents be included under the Architect's scope of responsibility.

Requested By: Client

If this Addendum is acceptable, please return one fully executed original to our office. Please contact me with any questions or comments.

By: Ian Glidden
Title: Project Manager
Date: January 12, 2009
Company: 360 Architecture Inc.

By: _____
Title: _____
Date: _____
Company: City of Lodi

Approved as to form


City Attorney

DAVIS LANGDON



January 12, 2009

719 Second Avenue
Suite 400
Seattle, WA 98104
Tel: 206-343-8119
Fax: 206-343-8541
www.davislangdon.com

Ian Glidden
360 Architecture Inc
1005 Sansome Street
Suite 234
San Francisco, CA 94111

City of Lodi Grape Bowl
Phase II Renovation
Lodi, California

FP272-2009-001a

All other services, including additional estimates, revisions to completed estimates, use of different estimating formats, additional meeting attendance, value engineering, reconciliation with cost estimates prepared by other parties beyond that specifically included above, or bidding and construction phase services will be considered additional services. Unless otherwise agreed prior to the work being carried out, our **fees** for any additional services will be based on time expended at our normal billing rates prevailing at the time the work is carried out. Currently, these hourly rates are:

Principals	\$255.00 - \$305.00
Associate Principals	\$205.00 - \$230.00
Senior Associates	\$180.00 - \$185.00
Associates	\$155.00 - \$165.00
Cost Planners	\$ 80.00 - \$150.00
Clerical	\$65.00
Deposition and Trial	Additional 50%

Unless otherwise agreed, **we** request a minimum of **two** weeks notice and **two** weeks to complete the work for each stage. Based on our understanding of the current schedule, we suggest the following dates for the formal submittals of our service:

	Documents to Davis Langdon	Complete Cost Plan
Schematic Design	January 16, 2009	January 26, 2009
Construction Documents	March 16, 2009	March 27, 2009

We look forward to the opportunity of assisting you on this particular project. If you have any questions regarding these **fees**, or the scope of our services, please do not hesitate to contact us.

Sincerely,

Steve Kelly

Confirmation of Agreement:

This letter correctly **sets** out the scope and **fees** for services to be provided by Davis Langdon for this project.

Signature of Authorized Officer

Title of Authorized Officer

Date

DAVIS LANGDON 719 Second Avenue
Suite 400
Seattle, WA 98104

Tel: 206-343-8110
Fax: 206-343-8541

www.davislangdon.com



Addendum to Owner-Architect Agreement

To: Jim Rodems
Client: City of Lodi
Project Name: Lodi Grape Bowl Phase I Renovation
Project Number: **087350.00**

Addendum Number: 4
Date: January **14,2009**

Per our recent conversation, this Addendum is **part** of, **and** incorporated by reference into, our Owner-Architect Agreement ("Prime Agreement") dated **12/5/2008**, and is subject to and **governed** by all the terms and conditions of the Prime Agreement unless modified in writing.

Scope of Work Establish a Not To Exceed amount for anticipated reimbursable expenses incurred by the Architect (360 Architecture, Inc.) in the process of completing the contracted work.

Compensation: Not To Exceed amount of **\$19,500.00**

Estimated
Schedule: No Change

Special
Provisions/
Remarks:

Reason for
Addendum: Client has requested that a Not To Exceed amount for **reimbursable** expenses anticipated to complete the Phase I Renovation documents be included.

Requested By: Client

If this Addendum is acceptable, **please** return one fully executed original to our office. Please contact me with any questions or comments.

By: Ian Glidden
Title: Project Manager
Date: January 14,2009
Company: 360 Architecture Inc.

By: _____
Title: _____
Date: _____
Company: City of Lodi

RESOLUTION NO. 2009-22

A RESOLUTION OF THE LODI CITY COUNCIL
AWARDING ADDENDA NO. 1, 2, 3, AND 4 TO
CONTRACT FOR GRAPE BOWL PHASE 1
RENOVATION PROJECT

WHEREAS, on November 5, 2008, City Council approved the contract for professional services with 360 – CA Schrock Architects, of San Francisco, California, for architectural services for the Grape Bowl Phase 1 Renovation project; and

WHEREAS, the scope of services in the contract did not include engineering, survey, cost estimating, and expense reimbursements because the project description was not fully developed; and

WHEREAS, since that time, the project description has been refined and these services can be more accurately defined; and

WHEREAS, Addendum No. 1 provides engineering survey services (\$19,800), Addendum No. 2 provides utilities and engineering design (\$38,500), Addendum No. 3 provides cost estimating (\$13,750), and Addendum No. 4 is for reimbursable expenses (\$19,500) for a total of \$91,550, which will be paid using Community Development Block Grant Funds.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve Addenda No. 1, 2, 3, and 4 for the Grape Bowl Phase 1 Renovation contract with 360 - CA Schrock Architects, of San Francisco, California, to provide engineering, survey, cost estimating, and expense reimbursements in the amount of \$91,550 for a total contract amount of \$209,050; and

BE IT FURTHER RESOLVED that the City Council does hereby authorize the City Manager to execute the Addenda.

Dated: March 4, 2009

=====

I hereby certify that Resolution No. 2009-22 was passed and adopted by the City Council of the City of Lodi in a regular meeting held March 4, 2009, by the following vote:

AYES: COUNCIL MEMBERS – Hitchcock, Johnson, Katzakian, Mounce, and Mayor Hansen

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None


RANDI JOHL
City Clerk